

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(s):	Koskinen et al	CONF. NO.:	2829
SERIAL NO.:	09/697,395	ART UNIT:	2619
FILING DATE:	10/27/2000	EXAMINER:	Sefcheck, G.
TITLE:	METHOD FOR MAINTAINING A DATA TRANSMISSION CONNECTION		
ATTORNEY DOCKET NO.:	460-009824-US (PAR)		

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

This is in response to the final rejection mailed 3 April 2008 in regard to the above-identified patent application. A Notice of Appeal is being filed concurrently herewith.

The Examiner has made the following errors in the Final Rejection of 3 April 2008 (paper No. 20080327).

1. All of the independent claims recite, "...a command to reset an application level time-out counter in the application server...". The Examiner states on page 4, third full paragraph, that "it would have been obvious to one of ordinary skill in the art at the time of the invention to explicitly include a command to reset a time-out counter for purposes of re-establishing applications associated with the packet data connection in the maintenance message of Frid." Further, on page 9, first paragraph, the Examiner states, "this limitation is found to be obvious based upon Frid's disclosure of re-

establishing applications that have not timed-out upon termination of the circuit-switched call and reactivation of the packet data connection.” It is respectfully submitted that the Examiner’s statements are incorrect.

The reference in Frid to applications which have not timed-out just means that various applications have different time-out lengths. Note that col. 8, line 39, of Frid states, “...that may be executing before an interruption and that may then be continued (unless timed-out) thereafter...”. (emphasis added). Thus the applications continue until timed-out. Thereafter the applications may continue after re-establishment of the bearer PPP correction without reinitialization. There is no preventing of time-out in the first place as in the presently claimed invention.

2. Claim 1 recites, “...transmitting said message to the application server before starting to establish the circuit-switched telecommunications connection.” The remaining independent claims have similar limitations.

The Examiner states on page 3, third full paragraph and page 8, third full paragraph, that this is disclosed by message line 318 and steps 324-326 of Frid. It is respectfully submitted that this is incorrect.

First, it is important to note that in the claimed invention the circuit-switched (CS) connection accepting message and the application timer-out reset message are distinct from each other. In Frid, message 318 (the “Voice Page Resp. (accept)”), starts the establishment of the connection by accepting the incoming voice call. Thus, there is no transmitting of a reset command message before starting to establish the telecommunications connection as recited in the claims. This is important to ensure that the time-out counter is reset before suspending the packet-switched connection.

On page 3, third full paragraph, the Examiner cites step 326 (establishing the CS) of Frid as occurring after message 318 as disclosing the claimed feature. However, as pointed out above, message 318 starts the establishing of the CS connection. Also, as

the Examiner concedes on page 4, first full paragraph, Frid does not disclose resetting any timers at any time.

3. The Examiner states on page 9, third full paragraph, that “the main problem addressed in the disclosure of Frid is irrelevant.” It is respectfully submitted that this is not correct.

Frid is for the problem of reinitializing data packages provided the packages have not timed out (Col. 8, line 39). His solution does not work if time-out occurs. There is absolutely no hint or suggestion of how to solve the time-out problem by preventing time-out from occurring in the first place. It is noted that in MPEP 2143.01, Rev. 6, Sept. 2007, p. 2100-139, right column, first full paragraph, it is stated that the “nature of the problem to be solved” is to be considered when modifying a reference citing *Ruiz v. A.B. Chance Co.*, 69 USPQ2d 1686, 1690.

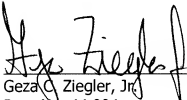
4. The Examiner states on page 8, first full paragraph, “It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method, system, and terminal of Frid by selecting a telephone number for setting up the circuit-switched connection before maintaining the packet data connection and setting up the circuit-switched connection, as shown by Chen.” It is respectfully submitted that this is incorrect.

Chen is for the problem of providing a dial tone during implementation of certain features in order to have an interface that resembles POTS (Col. 1, lines 53-59). Since this is totally different from the problem solved by the claimed invention, the Examiner has not provided the explicit analysis of the reason to combine the references in the first place required by *KSR International Co. v. Teleflex*, 82 USPQ2d 1385.

Thus, it is respectfully submitted that many essential elements needed for a *prima facie* rejection under 35 U.S.C. 103 (a) are lacking, and the rejections cannot be sustained.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



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30 June 2008
Date

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